

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION

MEDIDEA, LLC  
a Michigan Limited Liability Company

Plaintiff,

V.

Case No. 2:09-CV-258

ZIMMER HOLDINGS, INC.;  
a Delaware Company; ZIMMER, INC.;  
a Delaware Company; and ZIMMER US,  
INC.; a Delaware Company

TRIAL BY JURY DEMANDED

Defendants.

## **COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff, MEDIDEA, LLC, by its attorneys, hereby complains against Defendants, ZIMMER HOLDINGS, INC.; ZIMMER, INC.; and ZIMMER US, INC. as follows:

## I.

## The Parties

1. Plaintiff, MEDIDEA, LLC. (“MEDIDEA”) is a Michigan Corporation with its principal place of business at 911 NW Loop 281, Suite 211-38, Longview, Texas 75604.

2. Defendant, ZIMMER HOLDINGS, INC., is, on information and belief, a company established under the laws of Delaware, with its principal place of business at 1800 West Center Street, Warsaw, Indiana 46581, and is doing business in this judicial district and is engaged in the business of selling femoral prosthesis' used by orthopedic surgeons, from which it generates substantial revenue.

3. Defendant, ZIMMER, INC., is a subsidiary of ZIMMER HOLDINGS, INC., and is, on information and belief, a company established under the laws of Delaware, with

its principal place of business at 1800 West Center Street, Warsaw, Indiana 46581, and is doing business in this judicial district and is engaged in the business of selling femoral prosthesis' used by orthopaedic surgeons, from which it generates substantial revenue.

4. Defendant, ZIMMER US, INC., is a subsidiary of ZIMMER HOLDINGS, INC., and is, on information and belief, a company established under the laws of Delaware, with its principal place of business at 1800 West Center Street, Warsaw, Indiana 46581, and is doing business in this judicial district and is engaged in the business of selling femoral prosthesis' used by orthopaedic surgeons, from which it generates substantial revenue. Defendants ZIMMER HOLDINGS, INC.; ZIMMER, INC.; and ZIMMER US, INC. are hereafter collectively referred to as "ZIMMER".

## II.

### **Jurisdiction and Venue**

5. This Court has jurisdiction over the subject matter of this action under 28 U.S.C. ' ' 1331 and 1338(a) because this action arises under the Patent Laws of the United States, 35 U.S.C. ' 1, et seq.

6. Venue properly lies in the Eastern District of Texas pursuant to 28 U.S.C. ' 1391(b) and (c) because a substantial part of the events giving rise to these claims occurred in this District, MEDIDEA maintains a principle place of business in this district, and ZIMMER is subject to personal jurisdiction in this District.

### III.

#### **Claims Related to Hip Patents**

7. MEDIDEA is the owner of United States Patent Number 6,200,350 (the “’350 Patent”). A True and correct copy of the Patent as issued is attached hereto as Exhibit A.

8. MEDIDEA is the owner of United States Patent Number 6,383,225 (the “’225 Patent”). A True and correct copy of the Patent as issued is attached hereto as Exhibit B.

9. The ‘350 Patent and the ‘225 Patent (collectively “the Hip Patents”) are the result of pioneering research and development conducted in the field, among other areas, of proximal femoral prosthesis. The inventions disclosed by the Hip Patents have been incorporated by ZIMMER into its product lines, such as, for example, in its M/L Taper Hip Prosthesis with Kinectiv Technology.

10. It has been reported by ZIMMER that it generated over \$1 billion dollars in 2004 in revenue related to the sale of hip prosthesis products alone.

11. ZIMMER has been infringing the Hip Patents by selling femoral prosthesis’ with structures that are covered by and claimed in the Hip Patents in violation of 35 U.S.C. 271, with resultant damage to MEDIDEA.

12. ZIMMER, with actual knowledge of the Hip Patents, with knowledge of their infringement and without lawful justification, has willfully and deliberately infringed the Hip Patents.

**IV.**

**Claims Related to Shoulder Patents**

13. MEDIDEA is the owner of United States Patent Number 6,267,785 (“the ‘785 Patent”). A True and correct copy of the Patent as issued is attached hereto as Exhibit C.

14. MEDIDEA is the owner of United States Patent Number 6,379,391 (“the ‘391 Patent”). A True and correct copy of the Patent as issued is attached hereto as Exhibit D.

15. MEDIDEA is the owner of United States Patent Number 6,398,812 (“the ‘812 Patent”). A True and correct copy of the Patent as issued is attached hereto as Exhibit E

16. MEDIDEA is the owner of United States Patent Number 6,821,300 (“the ‘300 Patent”). A True and correct copy of the Patent as issued is attached hereto as Exhibit F.

17. MEDIDEA is the owner of United States Patent Number 7,229,478 (“the ‘478 Patent”). A True and correct copy of the Patent as issued is attached hereto as Exhibit G.

18. The ‘785 Patent, the ‘391 Patent, the ‘812 Patent, the ‘300 Patent, and the ‘478 Patent (collectively “the Shoulder Patents”) are the result of pioneering research and development conducted in the field, among other areas, of the proper position of a prosthetic shoulder implant. The inventions disclosed by the Shoulder Patents have been incorporated by ZIMMER into its product lines, such as, for example, in its Anatomical Shoulder Fracture System.

19. It has been reported by ZIMMER that it has generated substantial revenue related to the sale of shoulder prosthesis products.

20. ZIMMER has been infringing the Shoulder Patents by selling shoulder prosthesis’ with structures that are covered by and claimed in the Shoulder Patents in violation of 35 U.S.C. 271, with resultant damage to MEDIDEA.

21. ZIMMER, with actual knowledge of the Shoulder Patents, with knowledge of their infringement and without lawful justification, has willfully and deliberately infringed the Shoulder Patents.

**V.**

**Relief**

WHEREFORE, the Plaintiff, MEDIDEA, L.L.C., prays:

(a) for the entry of judgment holding that the Hip Patents and the Shoulder Patents are good and valid in law, and to have been willfully and deliberately infringed by the Defendants;

(b) for a preliminary and injunction preventing the Defendants from committing any further act of infringement;

(c) for a judgment that this cause is “exceptional” in the sense of 35 U.S.C. 285 and that MEDIDEA is entitled to an award of its reasonable attorneys' fees in the prosecution of its action;

(d) for an award of damages adequately to compensate MEDIDEA for the past infringement of the Hip Patents and the Shoulder Patents by the Defendants, together with interest and costs as fixed by the Court, such damages to be trebled because of the willful and deliberate character of the infringement; and

(e) such other relief as the Court deems proper and just.

**VI.**

**DEMAND FOR JURY TRIAL**

Pursuant to Federal Rules of Civil Procedure Rule 38, Plaintiff MedIdea hereby demands a jury trial on all issues triable by jury.

Dated: August 26, 2009

Respectfully submitted,

/s/ S. Calvin Capshaw  
S. Calvin Capshaw  
State Bar No. 03873900  
Elizabeth L. DeRieux  
State Bar No. 05770585  
D. Jeffrey Rambin  
State Bar No. 00791478  
CAPSHAW DeRIEUX, LLP  
1127 Judson Road, Suite 220  
P.O. Box 3999  
Longview, TX 75601-5157  
Telephone: (903) 236-9800  
Facsimile: (903) 236-8787  
E-mail: [ccapshaw@capshawlaw.com](mailto:ccapshaw@capshawlaw.com)  
E-mail: [ederieux@capshawlaw.com](mailto:ederieux@capshawlaw.com)  
E-mail: [jrambin@capshawlaw.com](mailto:jrambin@capshawlaw.com)

*OF COUNSEL:*

Joseph M. Vanek  
IL State Bar No. 6197046  
Thomas A. Vickers  
IL State Bar No. 6226288  
Jeffrey R. Moran  
IL State Bar No. 6283573  
VANEK, VICKERS & MASINI, P.C.  
111 S. Wacker Drive, Suite 4050  
Chicago, Illinois 60606  
Telephone: (312) 224-1500  
Facsimile: (312) 224-1510  
E-mail: [jvanek@vaneklaw.com](mailto:jvanek@vaneklaw.com)  
E-mail: [tvickers@vaneklaw.com](mailto:tvickers@vaneklaw.com)  
E-mail: [jmoran@vaneklaw.com](mailto:jmoran@vaneklaw.com)

Eugene M. Cummings  
IL State Bar No. 556394  
David M. Mundt  
IL State Bar No. 6243545  
Martin Goering  
IL State Bar No. 6286254  
Konrad V. Sherinian  
IL State Bar No. 6290749  
THE LAW OFFICES OF  
EUGENE M. CUMMINGS, P.C.  
One North Wacker Drive, Suite 4130  
Chicago, Illinois 60606  
Telephone: (312) 984-0144  
Facsimile: (312) 984-0146  
E-mail: [ecummings@emcpc.com](mailto:ecummings@emcpc.com)  
E-mail: [dmundt@emcpc.com](mailto:dmundt@emcpc.com)  
E-mail: [mgoering@emcpc.com](mailto:mgoering@emcpc.com)  
E-mail: [ksherinian@emcpc.com](mailto:ksherinian@emcpc.com)

*Attorneys for Plaintiff MedIdea, LLC*